
OLR Bill Analysis (as amended by House “A”)*

sHB 5501

AN ACT CONCERNING EYEWITNESS IDENTIFICATION PROCEDURES.

SUMMARY:

This bill refines police techniques for conducting eyewitness identifications of both photographic and live lineups. It includes provisions on:

1. development, promulgation, and training functions performed jointly by the Police Officer Standards Council (POST) and the Division of State Police (DSP) in the Department of Emergency Services and Public Protection (DESPP);
2. police instructions and communications with eyewitnesses; and
3. new functions for the Eyewitness Identification Task Force.

The bill also makes minor changes.

*House Amendment “A” specifies that the eyewitness identification policies that law enforcement agencies must adopt must be in accordance with POST’s and DSP’s joint policies and guidelines.

EFFECTIVE DATE: Upon passage for the task force; July 1, 2012, for changes in the eyewitness identification procedures; and October 1, 2012, for the police officer training.

POST AND DSP POLICIES

The bill requires, by February 1, 2013, that POST and DSP jointly develop and promulgate uniform, mandatory policies and appropriate guidelines for conducting eyewitness identifications. They must be (1) based on best practices and (2) followed by all municipal and state law enforcement agencies. POST and DSP must also develop and distribute

a standard form for use in conducting, and making a written record of, eyewitness identification proceedings.

The bill also requires basic and review POST, DSP, and municipal police training programs to include segments on administering the eyewitness identification procedures POST and DSP develop.

Applicability to Police and DESPP Procedures

The law requires each municipal police department and DESPP to adopt their own procedures for conducting photo and live lineups. Current law requires them to be adopted by January 1, 2012, but the bill extends the deadline to May 1, 2013. It specifies that DESPP's and departmental procedures must be in accordance with POST's and DSP's policies and guidelines.

IDENTITY OF SUSPECT

Currently, municipal and DESPP photo and live lineup procedures require that, when possible, the person conducting the lineup not be aware of which person is the suspect. The bill states that where this is not possible in a photo lineup, the person administering it use a "shuffle" method (similar to shuffling a deck of cards), computer program, or comparable method so that the person conducting the procedure does not know which photo the eyewitness is viewing.

Sequential Viewing

The bill also requires that whenever a suspect is among those participating in a photo or live lineup, each participant be presented sequentially so that the eyewitness views only one photograph or one person at a time. POST and SPD's joint policies and guidelines must require sequential viewing.

INSTRUCTIONS TO EYEWITNESSES

The bill increases the information that police officers must give to eyewitnesses before they view a photo or live lineup.

Existing law requires they be told that they should (1) not feel compelled to make an identification and (2) take as much time as they

need in making a decision.

The bill requires that they also be told that:

1. they will be asked to view an array of photographs or a group of people, and that each photograph or person will be presented one at a time;
2. it is as important to exclude innocent persons as it is to identify the perpetrator;
3. the person in a lineup may not look exactly as he or she did on the date of the offense because features like facial and head hair can change;
4. the perpetrator may or may not (current law says only “may”) be among the people in the lineup; and
5. the police will continue to investigate the crime regardless of whether the eyewitness makes an identification.

The bill also instructs police personnel to give any other instructions developed by POST and DSP.

Information About the Perpetrator

When an eyewitness identifies the suspected perpetrator after a photo or live lineup, current law prohibits police officers from telling the eyewitness anything about him or her until obtaining a statement from the witness indicating that he or she is certain the identification is correct.

The bill permits officers to give out information after the witness provides a statement indicating how certain he or she is that the identification is correct.

EYEWITNESS IDENTIFICATION TASKFORCE

The bill assigns new functions to the 19-member Eyewitness Identification Task Force created by PA 11-252. The task force is currently assigned to study issues relating to eyewitness identification

and the use of sequential photo and live lineups in criminal investigations. The task force submitted its findings and recommendations to the Judiciary Committee on February 8, 2012.

New Functions

Under the bill, it will be responsible for:

4. assisting POST and DSP develop their eyewitness identification policies and guidelines,
5. researching and evaluating best practices concerning the conduct of eyewitness identification proceedings and making recommendations to POST and DSP when such practices are revised,
6. collecting statistics concerning the conduct of eyewitness procedures by law enforcement agencies, and
7. monitoring the implementation of the eyewitness identification.

The task force must report to the Judiciary Committee on the results of its monitoring, and recommendations for proposed legislation, by February 5, 2014.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 1 (03/21/2012)

Public Safety and Security Committee

Joint Favorable

Yea 22 Nay 0 (04/25/2012)

